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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,018	12/16/2003	David M. Munson JR.	77535/00002	5591
23380 7590 09/25/2007 TUCKER ELLIS & WEST LLP 1150 HUNTINGTON BUILDING 925 EUCLID AVENUE CLEVELAND, OH 44115-1414			EXAMINER RICHMAN, GLENN E	
			ART UNIT 3764	PAPER NUMBER
			NOTIFICATION DATE 09/25/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@tuckerellis.com  
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**Office Action Summary**

Application No.

10/737,018

Applicant(s)

MUNSON, DAVID M.

Examiner

Glenn Richman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 30 is/are pending in the application.
- 4a) Of the above claim(s) 11-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

Applicant's election without traverse of claims 1-10 in the reply filed on 8/10/07 is acknowledged.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lighter.

Lighter discloses means adapted for receiving a controllable pressurized flow of a fluid (claim 7); means, responsive to the flow of the fluid, adapted for generating a force along at least one of a plurality of selected directions; and means adapted for transferring the force to a user of the apparatus, wherein the transferred force is adapted to supply physical resistance training to the user (claim 7), the means for generating the force comprises means adapted for receiving the pressurized flow of the fluid (claim 7), means adapted for discharging the fluid at a selected rate display cases pets, and means adapted for discharging the fluid along at least one of a plurality of selected directions (claim 7), a rate interface adapted to enable the selection of the rate of discharge of the fluid (claim 7), the rate interface is adapted to be controlled by at least one of the user of the apparatus a person assisting the user in the user's use of the apparatus, and an electronic device adapted to automatically control the rate

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interface (claim 7), a direction interface adapted to enable the selection of the direction of the discharge of the fluid (claim 7), the direction interface is adapted to be controlled by at least one of the user of the apparatus, a person assisting the user in the user's use of the apparatus, and an electronic device adapted to automatically control the rate interface the apparatus further comprises a source of pressurized fluid (claim 7), the means adapted for transferring the force to the user comprises a user interface adapted for interfacing with at least one of a plurality of parts of a body of the user (fig. 1), the user interface is adapted to interface with at least one of the user's head, foot, feet, hand, hands, arm, arms, leg, legs and torso (fig. 1), the apparatus is adapted to be moveable along at least one axis (fig. 1).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Comeau discloses a hand strength exerciser and progress indicator for both strong and weak hands.

Van Stratten et al disclose an exercise device.

Bonuttie discloses an exercise device using fluids.

Barzelay discloses a passive/active fluid exercise device.

Petree discloses "Thus, there is a need for a simplified fluid resistance device for use in exercise systems, in which resistance to motion in opposite directions can be adjusted, and in which a minimum pressure must be applied in order to induce fluid flow within the device. There is also a need for a fluid resistance device which can operate in an orientation and/or gravity free environment."

Kroeker discloses "each of said separate adjustable flow control means allowing variation of restriction of outward flow of hydraulic fluid from said cylinder means through said associated outlet means to control the amount of pressure required to move said piston means in the direction of outward flow of hydraulic fluid, whereby exercise resistance is generated to the movement of said piston means in the direction of outward flow hydraulic fluid".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Glenn Richman

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Primary Examiner  
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